





THE LIVING CHINESE

## WITNESS

## Highway 41

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1947 GRADE 11 HIGH SCHOOL EXAMINATION

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# Repairing and Mending THE HIGHWAYS.

## Section I.

## Of Removing Obstructions in the Highways, and Scouring the Ditches next adjoining.

First, **B**efore you begin to repair the Highways with any Stone, Gravel, or other Materials, take care to see that all Ditches and Drains adjoining thereunto, be opened, and scoured, and made deep, or low enough to car-

### Of Repairing Highways.

ry all standing Water out of the same Highways, where the Water is an Annoyance. Also see that all Trees and Bushes growing in or next adjoining to the Highways, and obstructing the easie passage of the People, be cut down, or kept low. And if the Owner of the Ground, or Soil, to which the Ditches, Trees, Hedges, or Bushes do belong, shall neglect to keep them so seour'd and cut as aforesaid, then you must present him, within one Month after default, to the next Justice of the Peace, who is to certifie the same at the next General Sessions, where the Defaulter is to be Fined at the Discretion of the Justices, according to the 5 Eliz. Cap. 13. but according to the 18 Eliz. Cap. 10. the Defaulter shall Forfeit for every Default Ten Shillings.

5 Eliz.  
Cap. 13.  
And  
18 Eliz.  
Cap. 10.

Secondly, See that the Earth and Soil cast out of the Ditches or Drains into the Highways, be not suffered to lyie thereby the space of Six Months, to the Annoyance of the Highways; but be carried off within

## Of Repairing Highways

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in that time, by him that holds the Ground next adjoining, and that scourred the Ditch. Which if he shall neglect to do in he Forfeits Twelve Pence for every Rod so eas'd up, and you are to present his default at next Quarter Sessions.

18 Eliz.  
Cap. 10.

Thirdly, See that all Ditches and Drains, in any Ground adjoining to the said Ground adjoining to the Highway, when any ditching or scouring ought to be, for conveying the Water out of the Highway, over the Ground next adjoining, be kept from time to time, as need requires, ditched and scoured: And if he that holds that Ground shall neglect to keep the same so ditched and scoured, he Forfeits Twelve Pence for every Rod not so done and kept, and you are to present his default at next Quarter Sessions.

18 Eliz.  
Cap. 10.  
§ 6. and 9.

Fourthly, See if there be any springs or Water courses in the Highways, making them deep and dangerous; and if there be, you have

Secondly

A 3

full

• Eliz.  
Cap. 13.

full Authority to turn the same into any Ditch of the several Ground of any Person next adjoining to the said Highways, in such manner as you shall think most convenient.

Those are the means appointed by the Old Statutes (still in force) for draining the Highways, in general, whether they be more or less than Twenty Foot broad: But for the draining and clearing such Highways as are not Twenty Foot broad, there are other additional Means appointed in the Late Statute made for the Better Repairing of them, which be these that follow:

First, Every Person that lays in any such Highway any Timber, Stone, Straw, or other Matter whatsoever, whereby the same shall be obstructed or annoyed, Forfeits for every such Offence Five Shillings, to be Levied by Warrants of Two Justices of your Division; or in default thereof, any Neighbouring Justices.

Secondly,

## Of Repairing Highways.

Secondly. Every Possessor of Lands  
adjoining to the Highway where  
any such Matter lies, must remove the  
same (and may take it to his own Use)  
which if he neglects to do within Ten  
Days after you have given him no-  
tice, he Forfeits also Five Shillings to  
be Levied as aforesaid, for every such  
neglect.

3 and 4  
W. and M.

Thirdly. If any Tree, Bush, or  
Stump, shall stand or grow in such  
Highway, and be not cut down and  
carried away by the Owner of the  
Soil, where the same doth stand or  
grow, within Ten Days after you  
have given him notice, he shall For-  
feit Five Shillings for every neglect,  
to be Levied as aforesaid.

3 and 4  
W. and M.

Fourthly. (Furthermore,) what  
Defects or Annoyances you shall find  
in the Highways, or in Causeys,  
Bridges, Ditches, Hedges, Trees,  
Water-courses, Drains, or Gutters  
next adjoining to the same, within  
your Precincts, you are to give pub-  
lick notice thercof from time to time,

4 hrs. 3  
M hrs. W

Of Repairing Highways.

in the Parish Church the next ~~Sunday~~  
immediately after Sermon ended :  
And if the same shall not be removed,  
and amended within Thirty Days  
after such notice given, then you are  
to do the same within Thirry Days  
after, and dispose of the Annoyances  
to and for the Repair of the High-  
ways ; and you shall be Reimbursed  
your Charges in so doing, by the Par-  
ties who should have done the same,  
upon your Application to any one of  
the next Justices.

Note also, That you are required  
under the Penalty of Five Pounds, to  
present upon Oath to one of the next  
Justices, within Fourteen Days after  
your first Acceptance of your Office,  
and so from time to time, every Four  
Months, during the same, the state  
and condition of all the Roads Com-  
mon Highways, Water-courses,  
Bridges, Causeys, and Pavements  
within your Parish, which are to be  
repaired at your Parish Charge.

3 and 4  
W. and M.

¶ A

And

## Of Repairing Highways.

And I must crave leave also to Note, That it seems very equal and reasonable, That when Ditches, and Drains next the Highway, which are to be scoured by the Tenant (who labours hard, and fares meanly, to pay his Rent) are once a Year sufficiently scoured by him, and the Soil carried away; then the same should afterwards, for that Year, be kept in repair by you. For they are afterward but of service only by the passing of Carts, Horses, and other Cattle, in the Common Highway, and not by the Tenant's default.

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*Of Repairing Highways.*

or I will leave these till to  
this issue. That will be  
less trouble. That will be  
done before the next  
autumn. And then we  
will be ready for the winter.

**Section II.**

*Of Draining the Highways, and  
Repairing them.*

First. **W**hen you have  
removed the Annoyances,  
and caused the Ditches and Drains  
next adjoining to the Highways,  
to be sufficiently opened and scoured by  
the Owners of the Soil, then do you  
cause all the Standing Water in the  
Highway, to be drained or conveyed  
into those Ditches and Drains, by  
new Trenches or Gutters; which  
ought to be constantly done, especially  
after every great fall of Rain; for  
if the Water stands long in any part  
of the Highways, they will be soon  
marred, and then require more  
Charge to be repaired, especially in  
Clayey Ground. And (in truth)  
the suffering of Water to stand in the  
Highways, especially in those that  
are

Of Repairing Highways.

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are much Carted, is the first and principal Cause of their decay and ruin.

Secondly, After the Water is drained out of the Highways, and the Ground become dry, then, and not before, lay on your Materials for repairing; except in Winter-time there happens to be Gulls, or such deep Holes which renders the Ways impassable, and to require present mending.

Thirdly, Where the Ruts, or Padways are deep, first lay Faggots, or Bushes of white or black Thorn cross-way, suffering them to be crushed down by Loaden Carts drawn over; and when you lay Stones on them, then omit not to cover the Stones with Gravel, or such like hard Rubbish; for this will get into the empty spaces between the Stones, and so fasten them together, that Cart-wheels and Horse-foot cannot easily displace them, which otherwise would be, and your Charge half lost.

That

That which doth much Gull and Marre the Common Highway, is the draught of Waggons and Carts with Burdens of exceeding weight, as 40, 50, 60, and sometimes 70 Hundred Weight; one of those Carriages doth more hurt to the Way than twenty of others, every one severally loaden but with Twenty Hundred. There was (indeed) all Remedy provided against this Inconveniencie, by the

14 Car. 2. Statute 14 Car. 2. Cap. 5; where in the Carriage in a Cart or Waggon was limittted to 20 Hundred Weight, between the First of October and the First of May; and to 30 Hundred between the First of May and the First of October; but that Law is expired, and so you have no Remedy in this Case, until it shall please the Parliament to provide one.

Fourthly, You are required, under such Penalty as the Justices shall impose, not exceeding Forty Shillings,

22 Car. 2. to suffer no Travelling Waggon, Wain, Cart, or Carriage, wherein any Burdens, Goods, or Wares are carried,

to pass your Highways with above Five Horse-beasts in length; except only such Carts and Carriages as are employed in and about Husbandry, and Manuring of Lands, and in the Carrying of Hay, Straw, Corn, Linen, Fust, Coal, Chalk, Timber for Shipping, Materials for Building, Stones of all sorts, or such Ammunition or Artillery which shall be for His Majesties Service.

Yours no quo gratia securis

And for your Encouragement, if you prove the Offences by due & Credible Witness upon Oath, before any Justice of the Peace, he is to grant you a Warrant for Distraing of the Goods and Chattels of the Offender; for the Sum of Forty Shillings; one third thereof to the People of the Parish, and the other third to you, if it be that discovered the Offense. Two and a half pence to houses so of Fifly; Remember, that you are required to make every Causey leading to any Market-Town eight Foot wide at the least, and as near as may be, even and level; and every

W. and M.

Causey

*Of Repairing Highways.*

Causes for Horses Travelling, at the least Three Foot in breadth,

**Section III.***Of Providing Materials.*

First, **V**OU may lawfully cause Stones lying upon any Lands or Ground within your Parish, to be gathered and carried for the amendment of the Highways.

5 Eliz. 13.

Secondly, You may take and carry away so much of the Rubbish, or small broken Stones, of any Quarries in your Parish, as you shall think necessary for the amending of the Highways, without Licence of the Owner; Provided, you find the Rubbish or Stones ready digged by the Owner; for it is not lawful for you to cause them to be digged out of the Quarry.

Thirdly, You may take and carry away so much of the Rubbish, or small broken Stones, of any Quarry, as you shall find the Owner has not digged out of the Quarry, and have cause to believe the Owner has not done it for want of power, or opportunity.

Thirdly, In case such Rubbish cannot be found there, then it is lawful for you to dig for Gravel, Sand, or Cinders, in any Persons Ground; Ex. 13. Ground within your Parish, Highway joining to the same that is to be repaired, and wherein Gravel, and such stuff, is like to be found, and as far away so much thereof as you shall think necessary, provided that you do not dig in the House, Garden, Orchard, or Meadow of any Person, nor dig more than one only Pit in any several and enclosed Ground; nor that the Pit be any way in breadth or length above Ten Yards over at the most; nor left unfilled up again with Earth, above one Month after it hath been made. Of all which you must be Circumspect, for you Forfeit for every default you shall make therein, Five Marks to the Owner of the Soil.

Fourthly, If you have not in your Parish Gravel, Stones, Quarries, nor other Materials fitting for the amending of the Highways, by reason whereof

3<sup>rd</sup> and 4<sup>th</sup>  
W. and M.

whereof you are bound to lay out  
your own Money for the Buying of  
such Materials, when upon your Pay-  
ing notice of the sum Expended by  
you, and making Oath thereof to the  
Justices at their Special Sessions  
(which by the Late Act is to be hold-  
en once in every Four Months, the  
peiry two of them, are impowered  
to cause a Rate to be made, for re-  
imbursing you, upon the Inhabit-  
ants of your Parish, who are to be  
Distrainted, if they refuse to pay,

not, g. more than the sum of  
one, say one shillings, to  
each, per head, in pre-  
dicted space. Then Rates exact as the  
Inhabitants refuse to pay him with-  
in a month after it is made  
known; or till his wife or son may  
been usde. Of all which you may  
be charged, for the use of the  
same, as above, or the Owners of the  
same, or the Owners of the same.

Fourthly. If you have not in your  
possession any Stone, Quarries, nor  
other Materials necessary for the same  
use, or the Repairs, by reason  
whereof

~~Thirdly, Every such Region is a  
vegetable man's base and prime object  
in his business, which is to supply  
the market with vegetables, meat  
and fish.~~

## Section-IV

## Of Providing Labourers, &c.

**F**irst, Every Housholder, and Every Cottager [one that holds a House without Land] and every Labourer of your Parish, being able to Labour, and being no Hired Servant, shall either work themselves, or every one of them send a Labourer to work Six Days in every Year, by the amendment of the Highways, <sup>2 and 3 P, and M,</sup> <sup>5 Eliz.</sup> <sup>Cap. 13.</sup> <sup>And 18 Eliz.</sup> <sup>Cap. 19.</sup>

Secondly, Every Person (except 5 Eliz.  
such as Dwell in the City of London) Cap. 13.  
chargeable in your Parish, but as a 18 Eliz.,  
Cottager to the mending of the High- Cap. 12.  
ways, if he be Assessed in any Subsidy  
or Tax to the King, so much as to  
Five Pounds in Goods, or Forty Shil-  
lings a Year in Lands, shall find two  
able Men Yearly, to Labour Six Days  
in the Highways.

2

Thirdly,

## Of Repairing Highways.

2 and 3  
P. and M.  
Cap. 8.

Thirdly, Every such Person as aforesaid, shall have and bring with them such Shovels, Spades, Mattocks, and other Tools as are necessary for their Work; and shall do and keep their Work, as you, or one of you shall appoint them, Eight Hours every of the said Days, unless you or one of you shall otherwise License any of them to have a longer

22 Ch. 2.  
Cap. 12.

Fourthly, The Six Days for working in the Highways, And for providing Materials, are to be appointed by you; having respect to the Weather and Season of the Year; and giving publick notice some convenient time before the Six Days. And in such places where the Highways cannot be sufficiently repaired before Midsummer, you may take time to do the same until a Forraight after Michaelmas; but within that time they must be repaired.

22 Ch. 2.  
Cap. 12.

Fifthly, If any of the said Persons Chargeable, as aforesaid, to find Labourers for mending the Highways,

shall

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Of Repairing Highways.

shall neglect to send them to make their respective Days Labour, then you are to make Complaint thereof to the next Justice of the Peace, who are required, upon Proof made to them of such neglect, by the Oath of one Credible Witness, to Levy by Distress and Sale of the Goods of every Offender, the sum of One Shilling and Six Pence for every Days default of every Labourer.

Also you may return all and every of the Defaulters within one Month after every default made, to some one Neighbouring Justice of the Peace, who is to present the same at the next Quarter Sessions, where the Offenders are to be Fined as the Laws and Statutes appoint.

22 Car. 2.  
Cap. 12.

But here (again) I must crave leave to say, that it seems very unequal, that every poor Cottager, and Labourer, who hath not Bread for himself and Family to Eat, but what he Earns by his Labour from Day to Day, should be Charged to Labour himself;

*Of Repairing Highways.*

himself, or to find a Labourer to work the Six Days, in repairing the common Highways. And therefore I cannot blame the Practice of some Surveyors in this Case, especially of those that live in Corporate and Market Towns, where the Poor abound, in admitting the Children of Poor Cottagers and Labourers, in Lieu of their Parents, to Labour the Six Days in gathering Stones for repair of the Highways; and in Conniving at the Absence of other Poor Cottagers that have no Children to send, or in taking but a little Money of them for their defect. *For the utmost of Justice, in this Case, would be Injustice and Oppression.*

*Diffidence is to be found in this Town and Stories abounding*

*But these (says) I will crave  
Leave to lay this to the best of my  
ability, that every body, that  
I know, who has not been  
unjustly sent his Family to Exile, but  
the Estates of his Land, and his  
Duty, in providing for his Family, I  
will assure him, that he has done  
Section*

Of Repairing Highways.

21

comonalty taken to be  
one in a year in hand to repair  
the same by roads, have been  
Section V. A. by the Rite, so  
concerning to the repair of Highways  
upon the same, as by the Rite of  
the same.

Of Providing Cartages.

First. Every Person Inhabiting any  
Plow-land in Village or Pasture, Occu-  
pied by him, and lying in your Parish,  
shall tend a Cart or Way, with  
Horses or Oxen, and also two able  
Men with the same, Six Days in eve-  
ry Year for the amending of the High-  
ways.

2 and 3  
P. and M.  
Cap 8.  
5 Eliz. 13

By a *Plow-land*, in the Statute, is  
not meant the quality of Land, as  
*Arable* or *Tillage*, but the quantity of  
Lands, whether the same be Arable  
or Pasture. In former Times the  
Subjects have been Taxed for all their  
Lands to the King, only by a *Plow-land*, or *Hyde* of Land, (which are  
both the same). But what quantity  
of Land is intended by a *Plow-land*, all  
Men have not agreed; yet now it is

## Of Repairing Highways.

commonly taken and allowed to be ~~as~~  
*great a Portion of Land as may be in one*  
*Year Tilled and Labour'd with one*  
*Plough:* And if after that Rate, ac-  
 cording to the best of your Judgment,  
 you shall Charge any Occupier of  
 Lands, either Pasture or Arable, ly-  
 ing within your Parish, and he be  
 Distrainted for neglecting his Duty to  
 the Highways, according to that  
 Charge, he hath no Remedy if he  
 finds himself Agrieved, but by Ap-  
 pealing to the Justices of the Peace at  
 their next General Quarter Sessions,  
 where they have Power to hear and  
 determine it.

Note, that the Occupier of a *Plow-*  
*Land*, is not Charged for the same  
 with respect to his or her *keeping a*  
*Draught or Plow*, but with respect  
 to the quantity of Land he or she Oc-  
 cupies in your Parish.

Secondly, Every *other Person* that  
 keepeth a *Draught or Plow* in your  
 Parish, shall in like manner find and  
 send one *Wain or Cart* with Horses or  
 Oxen.

18 Eliz.  
 Cap. 10.  
 Sect. 9.

2 and 3  
 P. and M.  
 Cap. 8.

Section V. If any Person be Charged for Occupying a *Plow-land*, he cannot also be Charged for keeping a *Draught or Plow*; and if he keeps a *Draught or Plow*, and Occupies no *Plow-land*, yet he shall be Charged for keeping a *Draught or Plow*, as he is bound to do by his occupation of their several

If he Person Charged for keeping a *Draught or Plow*, keepeth more *Draughts or Plows* than one, yet he shall be Charged to send but one Cart or Way with Horses or Oxen; for, neither the Statute of P. and M. nor any other Statute doth Charge him to send more than one; although he that Occupies more *Plow-lands* than one, shall find as many Carts or Ways with Horses as he hath *Plow-lands* in his Occupation within your Parish, as he is bound to do by his occupation of their several

Yet in the Kings Bench when Hale was Chief Justice, the whole Court was of Opinion, that so many *Draughts*, as any Man kept, so many he ought to send to the Highways; for so the Service they do, will answer the Damage by

2 and  
P. and M.  
Cap. 2.

### Of Expelling Highwaymen.

*the Expelling of Highwaymen.* Which Opinion seems to be very Equitable, and to Square with the Reason and Intent of the Law; and therefore if you Charge such Persons accordingly, you need nor fear, (as I conceive) of the same, to be approved by the Justices at their Quarter Sessions, in case the Defaulter shall Appeal thither.

*The Keeper of a Draught or Plow,* you may Charge for the same, to send so many Horses with a Cart or Wagon, as he usually draws the same with, whether that be two, or three, or more.

*Thirdly, Every Person dwelling in your Parish, that Occupies a Plow-land in Tillage or Pasture lying in several Parishes, shall be Charged for all the same in your Parish where he dwells; And he or she that dwells in another Parish, and keeps one or more Plow-lands in your Parish, shall be Charged for every of them in your Parish.*

*Fourthly,*

of Repairing Highways.

Fourthly, If any of the said Carts, and Wagons shall not be thought needful by you, to be employed upon any of the said Six Days, then every such Person that should have sent any such Carriages, should send in Lieu thereof, of two able Men to work for that Day.

Fifthly, Every Person and Carriage aforesaid, shall have and bring with them such Shovels, and other Tools as shall be necessary for their work, and shall do and keep their work, as you, or one of you shall appoint them Eight Hours every of the said Six Days, unless you shall otherwise allow it.

Sixthly, In such places where there is no use of Carts and Teams for mending the Highways, but the usage is to carry Materials on Horseback, or by other kinds of Carriages, there the Inhabitants shall send such their Horses and other Carriages in Lieu of Carts, with two able Labourers, in like manner as with Carts.

Seventhly,

22 Cap. 2.  
Cap. 12.

2 and 3  
P. and M.

2 and 3  
P. and M.

22 Cap. 2.  
Cap. 12.

Of Repairing Highways.

Seventyly, If any Persons shall neglect to send their respective Carts and Horses, as aforesaid, or then the Payment of Ten Shillings for every Days default of a Cart with two Men, and of Threes Shillings for every Days default of a Man and Horse, shall be Levied in such manner as is expressed before of Day-labourers.

Also you are required to keep the Defaulters within one Month after every default made, as you are before directed, to return the default of Labourers.

Eightly and Lastly, If after you using all those means herein before mentioned, the Justices of the Peace shall be satisfied, that the Highways, Causeys, Bridges, Streets, or Pavements within your Parish, cannot be thereby sufficiently repaired, then the laid Justices, at their General Quarter Sessions, are to allow and order one or more Assessment to be made upon the Inhabitants of your Parish, for the raising of Money to repair,

as need shall require, by Distress of the Goods of those that shall refuse to pay; provided that no such Assessment made in one Year, shall exceed the Rate of Six-pence in the Pound, of the Yearly Value of Lands and Tenements, nor the Rate of Six-pence for Twenty Pounds in Personal Estate, to

men or boldsmeed. Thus far I have provided to inform you of the Power, and Means, given and appointed by the Statutes for repairing the Highways; and now I shall add my own Advice, and opinion upon the manner of Charging Persons to the repairing of them.

To speak then plain, the way and manner of Charging Persons by the Old Statutes still in force, seems to me as unequal and oppressive, as it is uncertain and obscure. And I do conceive, that to Charge all Persons by an Assessment only, made according to the Rate of the Poor's Tax, will be more Equal, more Easie, and less Charge to the Parish, than to Charge Persons by a Plow-land, and by a Draught.

Draught or Plum, and by being meet Cottagers. And this will appear evident, if all Circumstances be compared and considered, of which I shall here offer only some.

First, By this means of Charging Persons by such an Assessment, the Surveyors will be enabled to command Carriages in times needful and convenient, and with such Carters and Labourers as will for their Hire, carry full Loads, and labour hard; whereas on the other hand, those that are Charged to find and tend in Carriages with their own Men, will Load and Draw as they please themselves for their own ease, come and go at their own time and leisure, and do not perform half so much work in a Day, as the other that are Hired. Also the Surveyors will be enabled to hire such Day-labourers as are able, and will be Industrious for their Hire, one of which (as I have observed) will do more work at the Highways in one Day, than is done by

by six or seven of others that come to work upon their own account as Cartagers, or that are sent in by them. These are they that call themselves *The King's Highway-Men*, when they beg of all Travellers that come near them; but they are commonly called, *The King's Loiterers*, who work when they list, come and go at their Pleasure, and spend most of their time in standing still and prating, and looking after their Fellows, whom they send out from their Work, most shamefully, to Rob Passengers, or *Layes*.

Also all Inhabitants will be Assessed proportionably to what they Occupy, in Lands, or Possess in Goods, which is agreeable to Equity; and the Farmer or Husbandman, who doth most hurt to the Highways, by his often Carting, for his proper Benefit, will pay the most in the Assessment, which is also reasonable.

Whereas on the other hand, by the present manner of Carting Persons, the

the poor in England, by the same Law,  
whose Families are scattered over the  
Broad Country by this Day, and  
Charged with the Maintenance of  
Highways, as other Poor  
Chimis (especially in Copper-  
Mucket-Towns) who are now in  
1000 of them, 5000. 10000. and  
some more, which is very uncom-  
mon & unpopulare.

Look this thing by this method  
And all Men & those that are  
Brought up in the same Country  
occupy half of his Land, and by  
this way of Assessment, escape  
paying little, and yet wear out the  
Highways much, while they in Peason  
be dispenced with, coateing the same  
thole hired Carts and horses, usually  
for the Accommodation of the  
Inhabitants, and the same  
for the use of the Poor, and  
Cstruging, for use longer, then they  
desire, and so all the way of charing  
the Persons by such in the same  
Country, and so many others, as the  
Persons in the same Country, and so  
many others, as the

lands, & the 100s of ruined houses,  
which are to be seen in every direction,  
are the consequence of the want of  
a sufficient number of workmen to  
work the mines, & the people are  
now obliged to buy, what is called  
a "Ticket," which means the right to  
work in the mines, & the miners  
are obliged to work under  
a wife for want of Employment, & who  
perhaps want Bread.

But this is not all, & the miners  
and their families glory in misery,  
which shall be increased. Consider  
now by what will happen, and altered;  
and in the meantime, you must  
change all your laws, and the present  
laws in being have directed you so to

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### *The Closer.*

**R**emember before you go out of  
your Office, or be discharged  
from it, that at some time special  
affairs, which the Justices of the



